IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 627 OF 1992

Rangnath Namdeo Barangule,
since deceased, by heirs
Kesharbai R. Barangule & Ors. ..Petitioners

versus

Ramkrishna Narayan Shete,
since deceased, by heirs
Dr. Narendra R. Shete & Anr. ..Respondents

Mr. K. Y. Mandlik for the Petitioners.

None for the Respondents.

CORAM : D. G. DESHPANDE, J.

DATE : 18TH SEPTEMBER, 2006

ORAL ORDER :

1. Heard Advocate for the Petitioners - tenants. Nobody is present for the Respondents, even though the Respondents are served.

2. The Petitioner claim to be tenant of the agricultural lands. Landlord - Respondents started proceedings for getting possession of the land under Section 14 read with 25 of the Bombay Tenancy and Agricultural Land Act, 1948, hereinafter referred to

as "the Tenancy Act". On account of the failure of the tenant to pay the rent, even though for every year default the landlord gave three months notice from 1978 to 1984, the Tenancy Court i.e. the first court on facts accepted the claim and contention of the landlord and allowed the application vide order dated 31.1.1987.

3. Thereafter, tenant filed Appeal before the Assistant Collector, Solapur Division, Solapur, vide Appeal No. 10 of 1987. That Appeal also came to be dismissed by an order dated 8.3.1988. Then, the Revision was filed before the Maharashtra Revenue Tribunal, Pune, at the instance of the tenant. That also came to be dismissed. Then the tenant again filed Review Petition that also came to be dismissed. As against these four orders of the Competent Authorities, that the present petition is filed.

4. All the four Authorities below have given consistent findings, they are concurrent findings. All the Authorities have come to the conclusion that the landlord has complied with Section 14 read with 25 of the Tenancy Act. The landlord has produced

necessary documents in that regard. It is a fact that tenant has not paid the rent inspite of continuous notice and in view of this consistent and concurrent findings of all the four Authorities below, no interference is called for because since this is a Petition under Article 227 of the Constitution, the findings of the four Authorities below, cannot be interfered unless it is show that all the orders of the four Authorities below or any one of them was perverse on the face of it. Petition is dismissed. Rule is discharged. Stay, if any, stands vacated.

5. When this order was pronounced, Advocate for the Petitioner contended that provisions of Section 43C are required to be taken into consideration. Section 43C reads as under:

> "43C. **Certain provisions not to apply to municipal or cantonment areas.--** [Nothing in section 31] to 32R (both inclusive) [33A, 33B, 33C] and 43 shall apply to lands in the areas within the limits of--.. a) Greater Bombay.
>
> b) a municipal corporation constituted under Bombay Provincial Municipal Corporations Act, 1949.
>
> c) a municipal borough constituted under the Bombay Municipal Boroughs Act, 1925.

> d) a municipal District constituted under the Bombay District Municipal Act, 1901.
>
> e) a cantonment, or
>
> f) any area included in a Town Planning Scheme under the Bombay Town Planning Act, 1954:
>
> Provided that if any person has acquired any right as a tenant under this Act on or after the 28th December 1948, the said right shall not be deemed to have been affected by the Bombay Tenancy and Agricultural Lands (Amendment) Act, 1952 or by the Amending Act, 1955, notwithstanding the fact that either of the said Acts has been made applicable to the area in which such land is situate."

Firstly, this point does not appear to have been raised before any of the Courts below and secondly first application of the tenant filed before the Tenancy Aval Karkoon, Barshi, which is a starting point for this proceeding was under Section 14 read with 25 of the Tenancy Act. Section 43C does not refer to any of the two Sections i.e. Section 14 and 25 and therefore this section has no application. This contention is also required to be rejected.

(D.G. DESHPANDE, J.)